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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

9

Application Number

10/747,728

Filing Date

12/29/2003

First Named Inventor

Marvin J. Williams, Jr.

Art Unit

3643

Examiner Name

Jeffrey Gellner

Attorney Docket Number

ENCLOSURES (Check all that apply)☐ Fee Transmittal Form☐ Fee Attached☐ Amendment/Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/
Incomplete Application☐ Reply to Missing Parts
under 37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a
Provisional Application☐ Power of Attorney, Revocation☐ Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board
of Appeals and Interferences☒ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please identify
below):**Remarks**

postal receipt card

Letter to Ms. Bridget C. Monroe, Patent Appeals Specialist

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Law Office of Adrienne B. Naumann.

Signature

Adrienne B. Naumann

Printed name

Adrienne B. Naumann, Esq.

Date

8-18-06

Reg. No.

33,744

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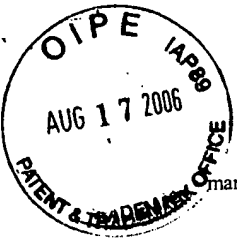
Adrienne B. Naumann, Esq.

Date

8-18-06

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August 18, 2006

Ms. Bridget C. Monroe
Patent Appeals Specialist
U. S. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

BY U.S. EXPRESS MAIL NO. EQ 506 559 525 US

Re: U.S. utility patent application no. 10/747,728
Filing Date: 12-29-2003
Inventor and Applicant: Marvin J. Williams, Jr.
Art Unit: 3643
Examiner: Jeffrey Gellner
Subject: modified appeal brief per August 3, 2006 office communication

Dear Ms. Monroe:

Pursuant to our August 9, 2006 telephone conference in the above captioned matter, we have enclosed the following modified appeal brief components:

1. A single statement for the STATUS OF CLAIMS on appeal.
2. A concise SUMMARY OF THE INVENTION which addresses two independent claims on appeal.
3. The updated STATUS OF AMENDMENTS, which now includes the non-entry status of the June 23, 2006 amendment.
4. A single statement of the appealed claims within the CLAIMS APPENDIX.
5. A statement of the 'not applicable' with respect to the EVIDENCE APPENDIX.

The requirement that Claims 8 and 14 be designated as 'rejected' and not 'withdrawn,' is incorporated within the Status of Claims and Claims Appendix. Our understanding is that we only refile corrected and missing pages.

Sincerely,

Adrienne B. Naumann, Esq.

Adrienne B. Naumann, Esq.

Attorney of Record

Phone: 847-329-8185

On behalf of o

Marvin J. Williams, Jr.

Inventor and Applicant

Enclosures

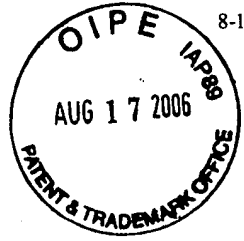


STATUS OF AMENDMENTS

Appellant filed a post final-rejection amendment on March 24, 2006. This amendment included twenty proposed amended claims. Evidence Appendix, Exhibit D, pages 11-19. It also included changes to the specification which the government required in its second final office action. *Id.* at pages 2-10. The brief portion of the amendment addressed why each proposed amended claim overcame the government's final rejections. *Id.* at pages 20-27. The government denied entry of Appellant's amendment and request for reconsideration on April 4, 2006. *Id.*, Exhibit E.

On June 23, 2006 Appellant filed a post-notice of appeal amendment pursuant to 37 C.F.R. 41.33(a). Evidence Appendix, Exhibit J. This amendment (1) modified claims to eliminate dependence on withdrawn claims; and (2) modified antecedent basis within claims. The Examiner denied entry of this June 23, 2006 amendment in his July 7, 2006 Advisory Action..

8-18-06



STATUS OF CLAIMS

Claims 1 through 20 inclusive are on appeal.



SUMMARY OF THE INVENTION

Claim 1

The intercropping and mulching method of independent Claim 1 does not require herbicides, pesticides, fertilizer or manure. Evidence Appendix, Exhibit G (Specification as originally filed), page 2, line 22. It does include no-till planting of an annual green manure crop. *Id.*, page 16, lines 15-16; Figure 2, reference numerals 17b, 18b. The annual green manure crop is mowed the following spring. *Id.*, page 21, lines 8-9; Figure 3, reference numerals 17, 18; Figure 4, reference numerals 18, 18a.

The annual green manure crop is then combined with organic debris such as soybean stems, cornstalks, desiccated soybean roots and intact nitrogen nodules. *Id.*, page 3, lines 6-7; page 21, lines 10-14; page 38, lines 24-26; Figure 3, reference numeral 19; Figure 4, reference numerals 5, 18 and 45. A portion of green manure and residue is tilled into the soil to a depth of approximately nine to fourteen inches. *Id.*, page 24, lines 8-10; Figure 5, reference numerals 5, 18, 18a and 45; Figure 6, reference numerals 18, 44 and 45; Figure 7, reference numerals 18, 44 and 45.

At least two commercial crops are then intercropped within the soil containing the tilled portion of combined green manure. *Id.*, page 24, lines 8-14; page 26, lines 5-9; Figure 11, reference numerals 8, 9, 12 and 90. The remaining portion of green manure and organic

debris is mixed, mowed and chopped as combination mulch over the intercropped soil.

Id., page 38, lines 16-26; page 39; page 40, lines 1-16. The farmer sprays the combination mulch upon the soil which is intercropped. *Id.*, page 40, lines 16-18; page 43, lines 1-17; Figure 16, reference numerals 8, 9, 20 and 45.

The combined green manure provides nutrients and a ground cover for the commercial intercropped crops, as well as ground cover during the winter. *Id.*, page 2, lines 20-24; page 3, lines 5-10.

Claim 9

The farmer initially plants an annual green manure crop. Evidence Appendix, Exhibit G, page 16, lines 25-26. He mows the green manure crop the following spring and combines it with organic residue to form combined green manure. *Id.*, page 16, line 18; page 21, lines 11-13, 15-18. He blends the combined green manure into the soil which will be intercropped. *Id.*, page 23, 24, and 25, lines 1-22. The remaining portion of the green manure crop is combined with organic residue to form combined mulch by mixing and chopping. *Id.*, page 21, lines 10-11.

The combined mulch is stored during the actual intercropping process. *Id.*, page 22, lines 9-11; page 38, lines 15-22. After intercropping, the farmer sprays the combination mulch upon the soil. *Id.*, page 42, lines 24-26; page 43, lines 1, 2; Figure 16, reference numerals 20, 45. The combined green manure provides nutrients to the intercropped commercial crops. *Id.*, page 3, lines 1, 2 and 16-17. The combination mulch provides ground cover and nutrients, as well as soil protection during the winter. *Id.*, page 3, lines 5-9. The green

manure crop can be buckwheat, buckwheat and wheat, Austrian peas, hairy vetch, soybeans, annual rye grass or winter rye. *Id.*, page 20, lines 13-26; page 21, lines 1-5.

The intercropped commercial crops are exclusively soybeans and corn. *Id.*, page 8, lines 24-28; page 44, lines 11-12. The farmer plants the soybeans and corn in alternating soybean areas and corn rows, with each area and row having a predetermined width. *Id.*, page 26, lines 5-10, page 27, and page 28 lines 1-4.

CLAIMS APPENDIX

Claims 1 through 20 inclusive are rejected.

EVIDENCE APPENDIX

Not applicable.